

FILED

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MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1978

No. 78-1238

CROATAN BOOKS, INC.,

Petitioner,

-vs-

COMMONWEALTH OF VIRGINIA,

Respondent

RESPONSE TO PETITION FOR
A WRIT OF CERTIORARI

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To the Honorable, the Chief Justice
and Associate Justices of the Supreme Court
of the United States.

The Commonwealth of Virginia, the
Respondent, prays that the Petition for
Writ of Certiorari be denied.

ARGUMENT

Arguments to questions presented by the Petitioner will appear in the same order as Petitioner's questions appear in it's Petition.

1. The Commonwealth submits that the trial Court's exclusion of Petitioner's prepared vior dire questions was not in error inasmuch as the trial Court presented questions of it's own and allowed the Petitioner apparent lattitude in probing possible unfair prejudice on the part of any jury member.

2. The Commonwealth submits that in obscenity prosecution, the jury was correctly prepared by instructions to apply "Community Standards" to the question of obscenity without specifying community. Jenkins v. Georgia, 418 U.S.

152 (1974).

3. The trial Court properly excluded testimony of Petitioner's expert witness since there was no establishment by Petitioner that this witness was an expert qualified to state what the contemporary community standards were in this case.

4. In the absence of a showing of the availability and the acceptability of other sexually explicit material, the trial Court was correct in prohibiting Petitioner from argument along this line.

5. The term "prurient" and its application to the evidence in this case was clearly and properly presented to the jury and the Commonwealth's Instruction 5 and 6.

CONCLUSION

For the foregoing reasons,
it is respectfully requested that
the Petition for Writ of Certiorari be
denied.

Respectfully submitted,

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